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CV2020-001402, Maricopa County Superior Court

UNITED STATES BANKRUPTCY COURT

DISTRICT OF ARIZONA

In re:

POTENTIAL DYNAMIX, LLC,

Debtor.

Chapter 11

Case No. 2:11-bk-28944-DPC

NOTICE TO BANKRUPTCY COURT

**A STATE COURT MINUTE ENTRY
ENTERED ON DECEMBER 13, 2022**

NOTICE IS HEREBY GIVEN, pursuant to Judge Collins' directive at the December 12, 2022 hearing that the Receiver should provide this Court updates as to the status of the Receivership claims process in *SWAZLAW, PLC v. Jess et al.*, Case No. CV 2020-001402 (consolidated), that the Maricopa County Superior Court has, among other things, set a hearing on February 23, 2023 to address objections to the Receiver's recommendations as to creditor claims against Schian Walker, P.L.C.

A copy of the Minute Entry dated December 13, 2022 is attached to this Notice.

Dated this 4th day of January 2023.

GUTTILLA MURPHY ANDERSON, P.C.

/s/ Ryan W. Anderson

Ryan W. Anderson

Attorneys for the Receiver

COPY of the foregoing emailed if marked with
an “*” or otherwise mailed on January 4, 2023 to:

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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2020-001402
CV 2022-000529

12/09/2022

HONORABLE SARA J. AGNE

CLERK OF THE COURT
J. Holguin
Deputy

S W A Z L A W, P L C

MARK DEATHERAGE

v.

CODY JAMES JESS, et al.

KEITH L HENDRICKS

RYAN W ANDERSON
ROBERT N BRIER
JAMES E CROSS
ALAN A MEDA
SCHIAN WALKER P L C
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KHALED TARAZI
TERESA H FOSTER
DAVID M REAVES
CODY J JESS
FREDERICK J PETERSEN
ELLEN R SERBIN
DOCKET CV TX
JUDGE AGNE

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

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ORAL ARGUMENT SET

Courtroom 912 – East Court Building

3:01 p.m. This is the time set for Status Conference on Motion to Consolidate, filed September 9, 2022, and the Motion for Order Approving Receiver's Final Claim Recommendations, filed September 14, 2022, as well as subsequent filings related thereto each of these via Court Connect. Plaintiff SWAZLAW, PLC is represented by counsel, Mark Deatherage. Defendant/Counterdefendant/Thirdpartyplaintiffs Cody James Jess and Scott R. Goldberg, Defendant Brooke Jess and Defendant/Thirdpartyplaintiff Hannah Romberg are represented by counsel, Keith L. Hendricks. Receivers David Reaves and Willanueva & Company, PC are represented by counsel, Ryan W. Anderson. Intervenor Morrisanderson & Associates Ltd. are represented by counsel, Khaled Tarazi.

A record of the proceedings is made digitally in lieu of a court reporter.

Discussion is held regarding the status of the case.

The Court has received and reviewed Motion to Consolidate, filed September 9, 2022, and the Motion for Order Approving Receiver's Final Claim Recommendations, filed September 14, 2022, as well as subsequent filings related thereto each.

Oral argument commences on the Motion to Consolidate, filed September 9, 2022.

IT IS ORDERED consolidating CV2022-000529 to CV2020-001402 for all purposes. All further filings shall be made and all further proceedings shall be held in **CV2020-001402**.

THE COURT NOTES that this Order consolidating these two cases has no effect on CV2022-013031.

The Court has received and reviewed Motion to Approve Settlement Agreement Between Receiver and Gallagher and Kennedy, P.A. filed on November 4, 2022.

Further discussion is held regarding said Motion.

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IT IS FURTHER ORDERED holding the Motion to Approve Settlement Agreement Between Receiver and Gallagher and Kennedy, P.A. filed on November 4, 2022 in abeyance, awaiting reply.

Further discussion is held.

IT IS FURTHER ORDERED setting an Evidentiary Hearing/Oral Argument on the pending Motion(s) for **February 23, 2023 at 1:30 p.m. (time allotted: 3 hours)**. Counsel and any unrepresented parties shall appear in person for this hearing before:

**THE HONORABLE SARA J. AGNE
JUDGE OF THE SUPERIOR COURT
EAST COURT BUILDING – 9TH FLOOR
COURTROOM 912
101 W. JEFFERSON
PHOENIX, AZ 85003
(602) 506-8288**

NOTE: All court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.

Requests for interpreters, court reporters or video conference must be made at least fourteen (14) days prior to the trial/hearing date.

IT IS FURTHER ORDERED that exhibits shall be submitted via Case Center no later than, **February 9, 2023**.

EXHIBIT NOTICE

This division uses Case Center, a state-wide electronic exhibit portal. All exhibits must be submitted through Case Center. **The case will be initiated by the Clerk of Court one (1) week prior to the exhibit deadline. When the case has been initiated by the Clerk of Court, the attorney of record will receive an email invitation to the case created in Case Center. The attorney of record is responsible for inviting through Case Center any co-counsel or staff who need access to the case.** The division welcomes counsel to participate in Case Center

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testing in advance of trial. Please call (602) 506-8288 to set up an appointment to test for your case. Please register for an account here: <https://digitalevidence.azcourts.gov>

For uploading exhibits to Case Center, please adhere to the following guidelines:

1. Exhibits must be appropriately titled. Any exhibit title containing derogatory or prejudicial information will be renamed by the Clerk.
2. Do not put exhibit numbers in your exhibit titles. Case Center will assign an exhibit number to each exhibit upon upload, and will number Plaintiff's exhibits and Defendant's exhibits separately (e.g., Plaintiff's exhibit 1; Defendant's exhibit 1, etc.).
3. Do not submit duplicate exhibits. **It is essential that the parties confer to avoid submitting duplicate exhibits.**
4. Original Depositions will not be marked as an exhibit. **Original** depositions to be used for impeachment purposes shall be provided in paper form to the Clerk on the first day of the hearing/trial to be hand-filed.
5. If large charts or blow-ups are anticipated to be used, please include a small version (or photo) which can be marked as the exhibit. The charts and blow-ups are used for demonstrative purpose only, are not marked as the exhibits, and are returned.

The Court, Clerk, and all counsel and self-represented parties will have access to the exhibits through Case Center. The Court will not have paper copies of exhibits available for witnesses. Counsel may use the Case Center presentation software or may use their own trial presentation software to present exhibits to witnesses and the jury, as long as counsel can avow that the exhibits they present are true and accurate copies of the Court's exhibits. These matters will be discussed further at the Final Trial Management Conference.

Further information about Case Center and training materials can be found at:
<https://www.azcourts.gov/digitalevidence/Digital-Evidence-Information>

For additional assistance in preparation of exhibits contact the Courtroom Clerk at:
Jennifer.holguin@maricopa.gov

IT IS FURTHER ORDERED that no later than **January 23, 2023** the Parties shall submit disclosures on whether this matter will be treated as an Evidentiary Hearing or Oral

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Argument and any witnesses and/or exhibits. Commensurate as well with a filing of Notice of Disclosure.

IT IS FURTHER ORDERED setting a Status Conference on **January 27, 2023** at **10:30 a.m. (time allotted: 30 minutes)** via Court Connect.

Please join the hearing via:
<https://tinyurl.com/ECB912>

You may need to type the link directly into your browser in lieu of clicking.

You can also dial in using your phone.

Phone: +1 917-781-4590 and Conference ID: 642 102 793#

You may wish to download the Microsoft Teams application first before using the above link or typing it into your browser; for more on Court Connect, please visit:
<https://superiorcourt.maricopa.gov/court-connect>

IT IS FURTHER ORDERED that if Jess and Goldberg or the Schians are withdrawing any of the objections to any of the eight claims that have been identified, filings shall be made withdrawing those objections no later than **December 16, 2022**.

Further discussion is held.

IT IS FURTHER ORDERED that no later than **December 16, 2022** counsel for Mr. Schian shall notify the Court if there is a conflict with the scheduled hearing date and time.

IT IS FURTHER ORDERED that no later than **January 23, 2023** that Parties shall notify the Court if any witnesses will be testifying via Court Connect.

Further discussion is held.

IT IS FURTHER ORDERED that any further briefing on the Motion to Approve Settlement Agreement Between Receiver and Gallagher and Kennedy, P.A. filed on November 4, 2022 shall be submitted no later than **December 16, 2022**.

4:09 p.m. Matter concludes.